

**ENTERED**

April 09, 2025

Nathan Ochsner, Clerk

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION**

L.B., by and through his next friend,  
GUILLERMO B., §  
§  
Plaintiff, § CIVIL ACTION NO. H-24-118  
v. §  
§  
KATY INDEPENDENT SCHOOL  
DISTRICT, §  
§  
Defendant. §

**ORDER ADOPTING MEMORANDUM AND RECOMMENDATION**

This court has reviewed the Memorandum and Recommendation of United States Magistrate Judge Richard W. Bennett on Katy Independent School District's motion for summary judgment and L.B.'s motion for summary judgment, (Docket Entry No. 23), as well as the parties' briefing, (Docket Entry Nos. 16, 17, 18, 19, 20, 21). L.B. objects to the Memorandum and Recommendation, and the court has reviewed the objections and response. (Docket Entry Nos. 24, 25). The court has made a de novo determination. *See FED. R. CIV. P. 72(b); 28 U.S.C. § 636(b)(1)(C); United States v. Wilson*, 864 F.2d 1219, 1221 (5th Cir. 1989) (per curiam).

L.B. objects to the background section because it relies on the Special Education Hearing Officer's findings of fact. But L.B. does not identify any contested facts in the background section. This court concludes that the Memorandum and Recommendation properly applied the "virtually *de novo*" standard of review and gave "due weight" to the hearing officer's decision. *See D.C. v. Klein Indep. Sch. Dist.*, 711 F. Supp. 2d 739, 744 (S.D. Tex. 2010) (quoting references omitted).

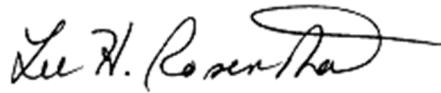
L.B. also objects to the characterization in the Memorandum and Recommendation of the protections under the Individuals with Disabilities Education Act, arguing that the Magistrate

Judge did not give due weight to the Supreme Court’s decision in *Endrew F. ex rel. Joseph F. v. Douglas Cnty. Sch. Dist. RE-1*, 580 U.S 386 (2017). The Fifth Circuit has held that *Endrew F.* “do[es] not conflict” with the four-factor test established in *Cypress-Fairbanks Indep. Sch. Dist. v. Michael F. ex rel. Barry F.*, 118 F.3d 245 (5th Cir. 1997). *E. R. ex rel. E. R. v. Spring Branch Indep. Sch. Dist.*, 909 F.3d 754, 765 (5th Cir. 2018) (per curiam). Rather, the two cases “fit together.” *Id.* The Act “guarantees a ‘basic floor’ of opportunity, ‘specifically designed to meet the child’s unique needs, supported by services that will permit him to benefit from the instruction.’” *See Richardson Indep. Sch. Dist. v. Michael Z.*, 580 F.3d 286, 292 (5th Cir. 2009) (quoting *Michael F.*, 118 F.3d at 247–48)). The Memorandum and Recommendation properly identified and applied the Act’s protections.

The remaining objections are attempts to relitigate issues that the Magistrate Judge already considered in the Memorandum and Recommendation. None of the objections have merit. The Magistrate Judge accurately identified the facts and correctly applied the law.

Based on this court’s de novo review of the pleadings, the objections, the record, and the applicable law, the court adopts the Memorandum and Recommendation as this court’s Memorandum and Order. The plaintiff’s motion for summary judgment, (Docket Entry No. 17), is denied. The District’s motion for summary judgment, (Docket Entry No. 16), is granted.

SIGNED on April 9, 2025, at Houston, Texas.




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Lee H. Rosenthal  
Senior United States District Judge